

REMARKS

The basis for the present invention is that enhanced levels of 20P2H8 gene expression are associated with neoplasms, cancers and dysregulated cell growth, all forms of similar malfunctions. Accordingly, it is not seen that a distinction needs to be drawn between claims 29, 30, and 32-33. Indeed, no distinction has been drawn between claims 30 and 32.

The invention does not lie in any kind of novel procedure to measure the expression of the gene; the level of expression can be measured either by measuring mRNA levels or protein levels as the gene is transcribed and translated. Accordingly, it is believed that all claims can be examined together. No extensive burden of search would be necessary; all of the inventions of Groups IX-XII fall into the same class. Should the restriction requirement be maintained and only Group X examined, the claims which read on this election are claims 30, 32, 34, 50-51 and 56-57. Should Group IX be rejoined, the claims would then further include claims 29 and 44-45. However, it is respectfully submitted that claims 29, 30, 32, 34 and 44-61 are properly examined together.

Applicants also note there is a requirement for an election of species in claim 34 and applicants elect the species of bladder cancer. Applicants understand that should claims focused on bladder cancer be held allowable, alternative species will be examined as well.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket No. 511582002100.

Respectfully submitted,

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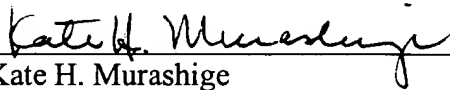
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EXHIBIT A. - VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims:

29. (Amended) A method [of examining] to identify a biological sample [for evidence of] that exhibits dysregulated cellular growth comprising comparing the [status] level of 20P2H8 gene expression in the biological sample to the [status] level of 20P2H8 gene expression in a corresponding normal sample, wherein [alterations] an alteration in the [status] level of 20P2H8 gene expression in the biological sample as compared to the normal sample identifies the biological sample as exhibiting [are associated with] dysregulated cellular growth.

30. (Amended) A method of identifying [evidence] the presence of a neoplasm in a biological sample comprising:

(a) [examining] determining a level of 20P2H8 gene expression in a test biological sample; and

(b) comparing the level of 20P2H8 gene expression in the test biological sample to a level of 20P2H8 gene expression found in a comparable normal biological sample,

wherein [differences] a difference in the level of 20P2H8 gene [products] expression in the test biological sample relative to the normal biological sample [are associated with] identifies the presence of the neoplasm.

32. (Amended) A method of diagnosing the presence of cancer in an individual comprising:

(a) determining the level of 20P2H8 [mRNA expressed] gene expression in a test sample obtained from the individual; and

(b) comparing the level so determined to the level of 20P2H8 [mRNA expressed] gene expression in a comparable known normal tissue sample,

[the presence of] wherein elevated 20P2H8 [mRNA] gene expression in the test sample relative to the normal tissue sample [providing an indication of] diagnoses the presence of cancer.

34. (Amended) The method of claim 32, wherein the cancer is prostate, cervical, kidney, stomach, skin, pancreatic, colon, bladder, breast, lung, testicular or ovarian cancer, and the test and normal tissue samples are selected from the group consisting of prostate tissue, kidney tissue, cervical tissue, skin tissue, stomach tissue, colon tissue, bladder tissue, breast tissue, lung tissue, pancreatic tissue, rectal tissue, ovarian tissue, testicular tissue, lymphatic tissue, serum, blood [or] and semen.